

REMARKS

In the above-noted Final Official Action, claims 1-3, 7-9, 13-18, 22-24 and 28-37 were rejected under 35 U.S.C. §103(a) over ENDOH et al. (U.S. Patent No. 5,819,103) in view of PLUNK (U.S. Patent No. 5,259,037). Claims 4-6 and 19-21 were rejected under 35 U.S.C. §103(a) over ENDOH in view of PLUNK, and further in view of KAPLOW et al. (U.S. Patent No. 4,202,041). Claims 10-12 and 25-27 were rejected under 35 U.S.C. §103(a) over ENDOH in view of PLUNK, and further in view of MAHONEY et al. (U.S. Patent No. 5,659,639). In view of the herein-contained remarks, Applicant respectfully requests reconsideration and withdrawal of each of the outstanding rejections, as well as an indication of the allowability of each of the claims now pending.

Initially, Applicant would like to thank the Examiner for his consideration in conducting a telephone interview with Applicant's representative, Joshua Povsner, on November 6, 2003. In the above-noted telephone interview, the Examiner and Applicant's representative discussed whether an adequate motivation exists, and was established in the outstanding Final Official Action, to combine the above-noted references.

Additionally, the Examiner and Applicant's representative discussed whether ENDOH and PLUNK, singly or in combination, disclose or suggest the features recited in claims 1, 13 and 32-37. The substance of the interview is reflected in the herein-

contained remarks. Although the Examiner admitted that the portions of the references applied in the Final Official Action did not, in fact, support the rejections, the Examiner indicated that the rejections could not be withdrawn until he had an opportunity to again review the applied references in order to ensure that the rejections were not supported elsewhere in the applied references.

Applicant traverses the rejection of claims 1-3, 7-9, 13-18, 22-24 and 28-37 under 35 U.S.C. §103(a) over ENDOH in view of PLUNK. In particular, Applicant respectfully submits that the outstanding Final Official Action does not satisfy the requirements for an obviousness rejection as previously set forth by the Court of Appeals for the Federal Circuit. In this regard, the Court of Appeals for the Federal Circuit has previously determined that "[t]he mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification". See *In Re Fritch*, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). In this regard, Applicant respectfully submits that the Examiner has not stated any manner in which the teachings of ENDOH "may be modified" such that the invention recited in the present claims would be obvious, let alone set forth a suggestion of "the desirability of the modification[s]".

Rather, the outstanding Final Official Action merely notes, for example, that "it would have been obvious to incorporate the teachings of Plunk into Endoh because

[Endoh] discloses an image processing computer system and Plunk discloses an imaging processing system using photogrammetry". Applicant asserts that the above-noted assertion of the Examiner is only a description of what the Examiner asserts is disclosed, and not a suggestion of the desirability of modifying ENDOH. Accordingly, the above-noted assertion does not adequately establish the existence of a motivation to combine the references. In any case, the mere fact that two references relate to an "image processing system", even if true, is not the affirmative suggestion to combine references that is required.

Furthermore, in addition to the failure to provide an appropriate motivation to modify ENDOH, there is also no explanation in the outstanding Final Official Action of how ENDOH could be modified by PLUNK such that the presently claimed invention is disclosed or suggested. Such modification is submitted to be particularly improbable since ENDOH is directed to, e.g., an information recording/reproducing apparatus that does not relate in any way to photogrammetry or surveying. Accordingly, Applicant respectfully submits that the outstanding Final Official Action does not establish a suggestion in the prior art to modify the invention of ENDOH "to produce a survey map by a photogrammetric analytical measurement", as is recited in, e.g., claim 1.

Additionally, Applicant asserts that even the combination of ENDOH and PLUNK does not disclose the invention recited in, e.g., claims 1, 13 and 32-37. In particular,

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claim 1 recites "a first monitor controller that selectively displays only one picture in each of at least two sets of pictures on said picture-display area of said scene" and "a second monitor controller that transfers a displayed picture from said picture-display area to said editing-display area and vice versa". Additionally, claim 1 recites a "a third monitor controller that visually displays a connection relationship between pictures displayed on said editing-display area of said scene" (emphasis added). Furthermore, claim 1 recites "said image processing computer system is configured to produce a survey map by a photogrammetric analytical measurement using the connection relationship" (emphasis added). Applicant respectfully asserts that, even if ENDOH and PLUNK are combined, the combination of ENDOH and PLUNK does not disclose or suggest the above-noted combination of features.

In particular, the outstanding Final Official Action asserts that the connection relationship "between pictures displayed on said editing-display area of said scene" is disclosed in ENDOH at "(Figure 4 114 Link control unit)". In this regard, the "Link control unit" of ENDOH is disclosed at column 9, line 64 to column 10, line 3 to calculate "the strength of a link between files on the basis of the initial set value and the number of times the link is used". However, there is no disclosure in ENDOH that the Link control unit" relates in any way to a connection relationship "between pictures displayed on said editing-display area of said scene". For example, there is no disclosed relationship

between the Link control unit 114, the "files", and the "right portion" of Figure 2 of ENDOH, which the Examiner asserts discloses an editing-display area. Accordingly, there is no disclosure that the files are "pictures displayed on said editing-display area of said scene" or that the link is a "connection relationship", as is asserted by the Examiner.

Additionally, there is no disclosure that any "link" between files could be used "to produce a survey map by a photogrammetric analytical measurement" (emphasis added), as is recited in claim 1, let alone that such links are used in such a manner. In this regard, the cited portions of ENDOH do not relate in any way to photogrammetry or the production of survey maps. Accordingly, Applicant respectfully submits that there is no indication in ENDOH that the link could be used in the manner suggested by the Examiner, let alone an indication that the link is used in such a manner.

Furthermore, the outstanding Final Official Action asserts that "Plunk discloses a system to generate survey map by using photogrammetry (Figure 3 where 41, 42 and 40 provide points of connection)". Applicant respectfully submits that the above-noted assertion is incorrect. In particular, 40, 41 and 42 of PLUNK are disclosed at column 3, line 64 to column 4, line 2. In the context of an aerial surveillance vehicle (e.g., a spy plane), PLUNK discloses that "a vehicle traveling along a flight path 40 is taking sequential aerial photographs at two camera positions 41, 42 and with an oblique field of view" (emphasis added). However, there is no disclosure that the flight path 40 and the

camera positions 41, 42 relate to the "connection relationship between pictures displayed on said editing-display area of said scene". In this regard, Applicant respectfully submits that there is a fundamental difference between a connection relationship between two pictures, and a relationship between the camera positions from which the pictures were taken. Accordingly, 40, 41 and 42 of PLUNK do not disclose a "connection relationship between pictures" as is recited.

Insofar as even the combination of PLUNK and ENDOH do not disclose the recited "connection relationship", Applicant respectfully submits that the outstanding rejection of claims 1, 13, 32 and 33 should be reconsidered and withdrawn. Accordingly, Applicant respectfully asserts that even the combination of ENDOH and PLUNK does not disclose or suggest at least a "connection relationship between pictures displayed on said editing-display area of said scene" where the connection relationship is used "to produce a survey map by a photogrammetric analytical measurement", as is recited in claim 1. Applicant additionally asserts that claims 13, 32 and 33 recite features similar to the above-noted features of claim 1. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection of each of the independent claims now pending.

Applicant further submits that claims 2-12, 14-31 and 34-37 are allowable at least because each depends, directly or indirectly, from an allowable independent claim, as

well as for additional reasons related to their own recitations.

For example, with respect to claims 34-37, the outstanding Final Official Action asserts that the features of claims 34-37 are disclosed or suggested by Figure 2 of ENDOH. In this regard, claim 34 recites "a first set having pictures featuring a photographed target located at a first target position and a second set having pictures featuring the photographed target located at a second target position".

In the above-noted telephone interview, Applicant's representative noted that Figure 2 of ENDOH does not disclose or suggest any two photographs featuring the same "photographed target", let alone featuring the same photographed target at respective first and second positions. Furthermore, the Examiner could not provide any explanation during the telephone interview of how ENDOH disclosed such a feature. Additionally, there is no disclosure or suggestion in PLUNK of such a feature or any similar feature; nor has the Examiner asserted that such a feature is disclosed or suggested by PLUNK. Accordingly, Applicant respectfully asserts that claims 34-37 are allowable over ENDOH in view of PLUNK for the above-noted reasons, in addition to their dependence from allowable independent claims.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection of claims 1-3, 7-9, 13-18, 22-24 and 28-37 under 35 U.S.C. §103(a) over EHDOH in view of PLUNK. Applicant also respectfully requests reconsideration

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and withdrawal of the outstanding rejection of claims 4-6, 10-12, 19-21 and 25-27 under 35 U.S.C. §103(a) over ENDOH in view of PLUNK, and further, in view of KAPLOW et al. Additionally, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection of claims 10-12 and 25-27 under 35 U.S.C. §103(a) over ENDOH in view of PLUNK, and further in view of MAHONEY.

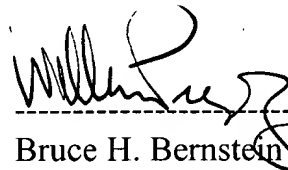
SUMMARY AND CONCLUSION

Applicant has made a sincere effort to place the present application in condition for allowance and believes that he has now done so. Applicant has discussed the features recited in Applicant's claims and has shown how these features are not taught, disclosed nor rendered obvious by the references applied by the Examiner.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed number.

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